

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.5408 Project plan; environmental review; categorical exclusion; criteria; environmental assessment; finding of no significant impact; environmental impact statement; record of decision; project reevaluation for compliance with national environmental policy act requirements; action prohibited during public comment period.

Sec. 5408. (1) The department shall conduct an environmental review of the project plan of each project in the fundable range of the priority list to determine whether any significant impacts are anticipated and whether any changes can be made in the project to eliminate significant adverse impacts. As part of this review, the department may require the submittal of additional information or additional public participation and coordination to justify the environmental determination.

(2) Based on the environmental review under subsection (1), the department may issue a categorical exclusion for categories of actions that do not individually, cumulatively over time or in conjunction with other federal, state, local, or private actions have a significant adverse effect on the quality of the human environment or public health. Additional environmental information documentation, environmental assessments, and environmental impact statements will not be required for excluded actions.

(3) Following receipt of the project plan, the director shall determine if the proposed public water supply project qualifies for a categorical exclusion and document the decision.

(4) The director may revoke a categorical exclusion and require a complete environmental review if, subsequent to the determination, the director finds any of the following:

(a) The proposed public water supply project no longer qualifies for a categorical exclusion due to changes in the proposed plan.

(b) New evidence exists documenting a serious health or environmental issue.

(c) Federal, state, local, or tribal laws will be violated by the proposed public water supply project.

(5) The proposed project shall not qualify for a categorical exclusion if the director determines any of the following criteria are applicable:

(a) The proposed facilities result in an increase in residuals and sludge generated by drinking water processes, either volume or type, which would negatively impact the performance of the waterworks system or the disposal methods, or would threaten an aquifer recharge zone.

(b) The proposed facilities would provide service to a population greater than 30% of the existing population, unless population projections required in section 5405(3)(e) support projected needs.

(c) The proposed public water supply project is known, or expected, to directly or indirectly affect cultural areas, fauna or flora habitats, endangered or threatened species, or environmentally important natural resource areas.

(d) The proposed public water supply project directly or indirectly involves the extension of transmission systems to new service areas.

(e) The proposed public water supply project has been shown not to be the cost-effective alternative.

(f) The proposed public water supply project will cause significant public controversy.

(6) If, based on the environmental review under subsection (1), the department determines that an environmental assessment is necessary, the department may describe the following:

(a) The purpose and need for the project.

(b) The project, including its costs.

(c) The alternatives considered and the reasons for their acceptance or rejection.

(d) The existing environment.

(e) Any potential adverse impacts and mitigative measures.

(f) How mitigative measures will be incorporated into the project, as well as any proposed conditions of financial assistance and the means for monitoring compliance with the conditions.

(7) The department may issue a finding of no significant impact, based upon an environmental assessment which documents that potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(8) An environmental impact statement may be required when the department determines any of the following:

(a) The project will have a significant impact on the pattern and type of land use or the growth and distribution of the population.

(b) The effects of the project's construction or operation will conflict with local or state laws or policies.

(c) The project will have significant adverse impacts on any of the following:

(i) Wetlands.

- (ii) Flood plains.
- (iii) Threatened or endangered species or habitats.
- (iv) Cultural resources, including any of the following:
 - (A) Park lands.
 - (B) Preserves.
 - (C) Other public lands.
 - (D) Areas of recognized scenic, recreational, agricultural, archeological, or historical value.
- (d) The project will cause significant displacement of population.
- (e) The project will directly or indirectly, such as through induced development, have significant adverse effect upon any of the following:
 - (i) Local ambient air quality.
 - (ii) Local noise levels.
 - (iii) Surface water and groundwater quantity or quality.
 - (iv) Shellfish.
 - (v) Fish.
 - (vi) Wildlife.
 - (vii) Wildlife natural habitats.
- (f) The project will generate significant public controversy.
- (9) Based on the environmental impact statement, a record of decision summarizing the findings of the environmental impact statement shall be issued identifying those conditions under which the project can proceed and maintain compliance with the national environmental policy act of 1969, Public Law 91-190, 42 U.S.C. 4321, 4331 to 4335, and 4341 to 4347.
- (10) If 5 or more years have elapsed since a determination of compliance with national environmental policy act, or if significant changes in the project have taken place, the department shall reevaluate the project for compliance with the national environmental policy act requirements. The department may do any of the following:
 - (a) Reaffirm the original finding of no significant impact or the record of decision through the issuance of a public notice or statement of finding.
 - (b) Issue an amendment to a finding of no significant impact or revoke a finding of no significant impact and issue a public notice that the preparation of an environmental impact statement is required.
 - (c) Issue a supplement to a record of decision or revoke a record of decision and issue a public notice that financial assistance will not be provided.
- (11) Action regarding approval of a project plan or provision of financial assistance shall not be taken during a 30-day public comment period after the issuance of a finding of no significant impact or record of decision.

History: Add. 1997, Act 26, Imd. Eff. June 17, 1997.

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